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CHANGING CONSERVATORS OR ENDING THE CONSERVATORSHIP

Your responsibilities as conservator end either when the conservatorship itself ends, or when your position as conservator ends. In either case, you must wind things up before a judge will release you from your conservatorship duties.

The conservatorship itself may end because the conservatee dies. It may also end because a judge decides it is no longer needed, either because the conservatee has regained the ability to handle his or her own affairs, or because the conservatorship estate has run out of money.

A conservator's position may end because

- The conservator resigned
- The conservator died
- The court removed the conservator from office

In these cases, the conservatorship continues, but under a new conservator.

See also Chapter 3, Section 5, for special rules for ending a **limited conservatorship**.

1. Ending a Conservatorship

A conservatorship ends when the conservatee dies. Also, a judge may end it if the conservatee becomes able to handle his or her own affairs, or if the estate runs out of money.

A. The Conservatee Becomes Able to Handle His or Her Own Affairs

Someone may have a conservator while he or she recovers from a physical or mental condition that is temporarily disabling. For example, the conservatee may have had a stroke or been in a serious auto accident and be unable to handle his or her personal affairs or finances. After rehabilitation, the conservatee may recover and be able to take care of things again.

Or someone with a developmental disability may improve to the point of becoming able to manage his or her affairs. For example, after several years of instruction in independent living and money management, a conservatee with mental retardation may no longer need someone else to manage his or her personal and financial affairs. A limited conservatorship that was set up to help meet these needs may no longer be necessary.

In these cases, the conservatee, the conservator, one of the conservatee's relatives or friends, or some other interested person may ask the court to end the conservatorship. The court may have the court investigator evaluate the conservatee's condition to see if the conservatorship should be ended. If the judge ends the conservatorship, you will be released from your duties once you have completed the final responsibilities required by the court. See Section 3 later in this chapter for more information.

B. The Conservatee Doesn't Have Any More Assets

Sometimes all of the conservatee's assets will be spent for his or her care. Without assets, there may no longer be a need for a conservatorship of the estate. The conservatorship of the person, however, will continue.

If the conservatee's only income is from public benefits, such as **SSI** or social security, it may be possible to end the conservatorship of the estate. Some public benefit laws allow a "named payee" to receive benefits on behalf of the person who is eligible to receive them. Since this "named payee" doesn't have to be appointed by a judge, a conservator of the estate may not be necessary any more.

If you believe that all of the conservatee's assets will be spent at some point, check with your lawyer to find out what should be done. **L**

C. The Conservatee Dies

A conservatorship ends when the conservatee dies. However, a judge will not release you from your duties and officially close the conservatorship until you have taken certain additional actions. Check with your lawyer to find out what is required. **L** Section 3 later in this chapter has more information about these final responsibilities.

2. Changing Conservators

In some cases, the conservator will be replaced and the conservatorship will continue. This may happen when the conservator resigns or dies. It may also happen if the judge removes the conservator by court order.

A. The Conservator Resigns

If you become ill or can't continue serving as conservator for some other reason, you may file a petition asking the court to accept your resignation. Your lawyer will help you make this request. **L** You can only ask for permission to resign. Unless the court accepts your resignation, you are still fully responsible as conservator.

If the court accepts your resignation, the judge may ask you to help find someone else to replace you as conservator. Sometimes the lawyer for the conservatee also helps find a suitable replacement. The replacement could be one of the conservatee's relatives, friends, or business acquaintances or a private professional conservator, a nonprofit agency, or a government agency called the **public guardian**.

The public guardian may be appointed as conservator if there is no suitable relative or friend who is willing to be appointed. Guidelines about which cases the public guardian will handle vary from county to county. In many counties, especially large ones, the public guardian has so many cases that it is hard for that office to give conservatees the attention and personal contact that a caring friend, relative, or private professional can provide.

If you believe the public guardian should be appointed to replace you as conservator, contact the public guardian office in your county. The court investigator can give you the phone number.

After you have resigned, the judge will **discharge** you from your duties once you have completed your final responsibilities. See Section 3 later in this chapter for more information.

B. The Court Removes the Conservator

The court may remove a conservator who isn't doing the job, or isn't capable of doing it, and then appoint a new conservator. The conservatee or any of his or her relatives or friends may ask the court to remove and replace the conservator. If the conservatee makes the request and doesn't have his or her own lawyer, a judge will appoint one to file a petition for the conservatee asking for **removal** of the conservator. **L**

If you are involuntarily removed, you are still responsible for handing things over to a new conservator. Section 3 later in this chapter explains your final responsibilities.

C. The Conservator Dies

If the conservator dies, a relative, friend, or executor of the deceased conservator should notify the court. A limited conservatorship itself ends when the conservator dies (see Chapter 3). In the case of a general conservatorship, however, the court appoints a new conservator as a replacement so that the conservatorship may continue as long as it is needed.

If the conservatee still needs help following the death of his or her conservator, a concerned friend, relative, or agency should file a petition asking the court to appoint a new conservator. If the conservatorship is no longer needed, the conservatee may ask the court to end it.

The person handling the deceased conservator's final affairs must complete the conservator's final duties before the judge will release the decedent's estate from responsibility as conservator. Section 3, which follows, has more information about these final duties.

3. The Conservator's Final Responsibilities

Whether you are a conservator of the person or conservator of the estate, you must wind things up before the judge will release you from your responsibilities.

If someone else is taking over, be sure to get all of your files and notes in order and pass them on to the new conservator.

If the conservatee dies, notify the court right away by sending a letter to the court investigator. Check with your lawyer to see if the court has any special requirements, such as filing the death certificate. **L**

If you are conservator of the estate, whether the conservatorship itself ends or you are being replaced by a new conservator, the court will not release your bond or discharge you from your duties until you do the following:

- Pay any court assessments due for investigation costs.
- Account for all of the conservatorship estate assets. If the conservatee has died, you will need to make two separate accountings: the first covering the period up to the date of the conservatee's death and the second covering the period after that date.
- Get the court's approval of your final accounting.
- Deliver the assets to and get a receipt from the appropriate person—for example, the new conservator or the executor of the conservatee's decedent estate.
- File the receipt with the court.

Once the court officially releases you, you are no longer responsible for managing the estate. If you are conservator of the estate, that release is called a discharge and follows court approval of your final accounting and distribution of all conservatorship assets to the restored conservatee, to the personal representative of the conservatee's decedent estate, or to the successor conservator of the conservatee's estate.